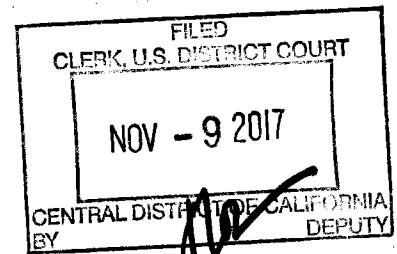


STEPHEN YAGMAN
475 Washington Boulevard
Venice Beach, California 90292-5287
(310) 452-3200

Presented on behalf of Plaintiff,
Stephen Yagman



ORIGINAL

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

<p>STEPHEN YAGMAN, Plaintiff, v. NATASSIA KELLY, BILLIE JOE GLABICKI , CHELSEA JEFFERS, MARK T. BERTOLINI, KAREN S. LYNCH (ROHAN), FIRST HEALTH LIFE & HEALTH INSURANCE COMPANY, AETNA, INC., AETNA LIFE INSURANCE COMPANY, COVENTRY HEALTH CARE, INC., and TEN UNKNOWN NAMED DEFENDANTS, 1-10, Defendants.</p>	<p>2:17-cv-06022-MWF(PJWx)</p> <p>FIRST AMENDED COMPLAINT</p> <p>JURY DEMAND</p> <p>CLASS ACTION ALLEGATIONS</p> <p>(11/09/17)</p>
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Plaintiff makes the following allegations on information and belief:

JURISDICTION AND VENUE

1. Plaintiff asserts diversity of citizenship claims against all defendants, as defendants and plaintiff are citizens of different states, plaintiff of New York, and defendants of states of the United States other than New York, and therefore the court has jurisdiction pursuant to 28 U.S.C. § 1332, since the matter in controversy

1 exceeds the sum or value of \$75,000, exclusive of interest and costs; plaintiff also
2 asserts his state law claims based on supplemental jurisdiction, under 28 U.S.C. §
3 1367; and, jurisdiction also is based on 28 U.S.C. § 1331, as federal civil RICO
4 claims are asserted, pursuant to 18 U.S.C. § 1961, *et seq.*

5 2. All defendants did both general business and case-specific business
6 directed at both plaintiff and the State of California, as more specifically alleged
7 hereinbelow, plaintiff has a residence in California, the matters that are the bases
8 for this action occurred in Los Angeles County, and therefore venue lies in the
9 United States District Court for the Central District of California and in its
10 Western Division, pursuant to 28 U.S.C. § 1391.

11 **THE PARTIES**

12 3. Plaintiff is STEPHEN YAGMAN ("Yagman" or "plaintiff"), and
13 defendants are NATASSIA KELLY, BILLIE JOE GLABICKY, CHELSEA
14 JEFFERS, MARK T. BERTOLINI, KAREN S. LYNCH (ROHAN), all of whom,
15 KELLY, GLABICKY, JEFFERS, BERTOLINI, and LYNCH (ROHAN), are
16 individuals who work for, are employed by, are agents of, and are business parts of
17 defendants FIRST HEALTH LIFE & HEALTH INSURANCE COMPANY,
18 AETNA, INC., AETNA LIFE INSURANCE COMPANY, COVENTRY
19 HEALTH CARE, INC., and TEN UNKNOWN NAMED DEFENDANTS, 1-10,
20 (hereinafter, collectively, sometimes "defendants"), who are persons and/or
21 entities whose true names presently are unknown and who may have engaged in
22 some conduct that is culpable with respect to plaintiff, as set forth hereinbelow,
23 whose true names will be added as defendants when they are ascertained. Unless
24 otherwise stated, "defendants" refers to all defendants.
25

26 **ALLEGATIONS COMMON TO EACH COUNT**

27
28

1 4. Each and every allegation set forth in each and every averment of this
2 pleading hereby is incorporated by this reference in each and every other averment
3 and allegation of this pleading.

4 5. Plaintiff and the company defendants entered into a written contract, or a
5 "plan," as defendants call it, whose terms are set forth in full in a contract of
6 insurance or "plan" that defendants possess, which defendants never provided to
7 plaintiff and which plaintiff does not possess, under whose material terms the
8 company, non-individual defendants agreed to insure plaintiff for prescription
9 medications, beginning on January 1, 2017, and to pay for plaintiff's prescription
10 medications, and the material terms of that contract or "plan," insofar as this action
11 are concerned, are that (a) plaintiff agreed to pay monthly premiums of \$42.30 and
12 (b) the company defendants agreed pay for plaintiff's prescription medications that
13 were listed, as covered on defendants' formulary, a copy of which defendants did
14 not provide to plaintiff. The medications were to be whichever medications were
15 prescribed for plaintiff, prescriptions for which plaintiff submitted to pharmacies,
16 and which pharmacies dispensed. At the time the contract/plan began, it was not
17 known which medications would be prescribed.

18 6. At the time of entry into the agreement/plan, these defendants agreed to
19 insure and to pay for prescription medications, as set forth in the contract/plan, as
20 set forth in averment 5.

21 7. These company defendants did not intend to insure Yagman, and
22 misrepresented that they would insure Yagman, and their material representation
23 that they would insure Yagman was false, and known to be false at the time it was
24 made, these company defendants intended that Yagman rely on their
25 representations, Yagman relied on them, and based thereon Yagman always timely
26 paid defendants' monthly premiums, but beginning on June 1, 2017, all defendants
27 refused to pay for plaintiff's prescription medications, and thereby defrauded
28

1 Yagman, breached the contract/plan, damaged Yagman, who was forced to pay for
2 his own prescription medications, and from June 1, 2017 until October 23, 2017,
3 sometimes having to go without the medications.

4 8. In April and May, 2017, all defendants falsely and fraudulently
5 communicated to Yagman by USPS mail that he had failed timely to pay his
6 premiums and that if he would pay them by May 31, 2017, all defendants would
7 continue his prescription medication coverage. These representations were false
8 when they were made and were known to be false when they were made,
9 defendants intended that Yagman rely on them, and Yagman reasonably did rely
10 on them, and timely paid the premiums.

11 9. These defendants knew and intended that their representations to be false
12 and misleading.

13 10. These defendants intended that Yagman rely on these defendants'
14 knowingly false representations.

15 11. Yagman reasonably relied on these defendants' representations.

16 12. In reliance on these defendants' representations, Yagman on May 9,
17 2017 paid monthly premiums for the months of March, April, and May, 2017, in
18 the total sum of \$126.90, to these defendants, but defendants then lied and
19 contended that these premiums had not timely, by May 31, 2017, been paid .

20 13. All defendants failed and refused timely to pay Yagman's claims for
21 prescription medications after May 31, 2017, and until October 23, 2017.

22 14. More pecifically, beginning on April 14, 2017, and then on April 18,
23 2017, April 20, 2017, April 29, 2017, May 6, 2017, June 1, 2017, June 6, 2017,
24 June 21, 2017, and June 26, 2017, the individual defendants, KELLY,
25 GLABICKY, JEFFERS, and UNKNOWN NAMED DEFENDANTS, by both
26 United States mail and by telephone, refused Yagman's repeated requests to pay
27 for plaintiff's prescription medications, threatened to terminate, terminated, and
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1 refused to re-instate plaintiff's prescription medication insurance overage, all on
2 behalf of all of the company defendants, and also refused, and continue to refuse,
3 to refund to plaintiff the premiums plaintiff had paid to the company defendants
4 on May 25, 2017, for the months of June, July, and August, 2017, and all of these
5 things were done pursuant to the policies, practices, procedures, and customs of
6 the company defendants, and those who managed and ran those companies,
7 defendants BERTOLINI and LYNCH, who drafted those policies, *etc.*, and who
8 ratified, acquiesced in, and condoned the other individual defendants' wrongful
9 conduct.

10 15. Yagman was injured and damaged by all defendants' failures and
11 refusals to pay for Yagman's prescription medications, and defendants
12 fraudulently obtained and then retained and thereby stole Yagman's June, July, and
13 August, 2017 premiums, in the sum of \$126.90.

14 16. At the time that the non-individual defendants entered into the
15 contract/plan with Yagman, those defendants knew that their representations to
16 insure and to pay claims to Yagman were false, and were running a bad faith
17 insurance scam.

18 17. These non-individual defendants intended to induce Yagman to enter
19 into the contract/plan of insurance, so that Yagman would pay the premiums to
20 these defendants, but then defendants would not pay for Yagman's prescription
21 medications.

22 18. Yagman reasonably and detrimentally relied on these defendants'
23 representations that these defendants would insure Yagman's prescription
24 medication interests and needs and indemnify Yagman, were Yagman to submit to
25 his pharmacy prescriptions for his medications.

26 19. Yagman was harmed both by his reliance on the defendants'
27 misrepresentations, by Yagman paying premiums to defendants, by defendants
28

1 getting and keeping Yagman's premiums, and by defendants not paying for the
2 medications.

3 20. When Yagman filed appeals from the termination of his insurance
4 benefits, *see* aver. 14, *supra*, all defendants made further misrepresentations that
5 defendants on demand and timely would pay for Yagman's prescription
6 medications, but then failed and refused to do so, thus inducing Yagman not to file
7 the instant action, because filing the instant action was the only recourse Yagman
8 had to gain reinstatement of his insurance/plan, which defendants then reinstated
9 on or about October 17 or October 23, 2017.

10 21. Having devised or intending to devise a scheme or artifice to defraud, or
11 for obtaining money by means of false or fraudulent pretenses, representations, or
12 promises, all defendants transmitted or caused to be transmitted by means of
13 interstate telephone services and United States mail, in interstate commerce, *see*
14 aver. 14, *supra*, writings and words for the purpose of executing their scheme or
15 artifice, and accomplished their wrongful purposes.

16 22. Plaintiff is ignorant of the names of the persons who made all of the
17 above-listed transmissions.

18 23. The company defendants are parts of the same insurance group and/or
19 company, and/or are subsidiaries of one another.

20 24. Plaintiff's state law claims are asserted as both diversity and
21 supplemental claims.

22 25. Within the last 10 years, in at least 10 instances, and specifically in the
23 case of the Aetna company defendants, all defendants engaged in fraudulent and
24 RICO-predicate conduct by fraudulently, improperly, and wrongfully interpreting
25 and applying a health benefits plan and refusing to pay benefits to, and specifically
26 to the Aetna companies, to Elizabeth L., an insured from June 2011 to June 2012,
27 and by engaging in interstate commerce to accomplish this.

1 26. All of all defendants' actions as alleged herein were oppressive,
2 malicious, fraudulent, and in violation of plaintiff's legal rights, and were done
3 with the knowledge and intent to cause injury to plaintiff.

4 27-125. Reserved.

5 **COUNT 1**

6 (Breach of Contract)

7 126. By doing the things set forth hereinabove, the company defendants,
8 FIRST HEALTH LIFE & HEALTH INSURANCE COMPANY, AETNA, INC.,
9 AETNA LIFE INSURANCE COMPANY, COVENTRY HEALTH CARE, INC.,
10 materially breached their agreement/plan with Yagman, Yagman was injured and
11 damaged by these company defendants' breaches, and Yagman is entitled to
12 recover damages from defendants for breach of the agreement it calls "First Health
13 Part D Value Plus (PDP) plan." There is no contract/plan to attach, since
14 defendants did not provide any written plan to plaintiff.

15 127. The individual defendants, NATASSIA KELLY, BILLIE JOE
16 GLABICKI , CHELSEA JEFFERS, on behalf of the company defendants,
17 effectuated the breaches, which the company defendants then ratified.

18 127. The material contract terms were that Yagman must pay premiums
19 each month and in consideration of Yagman's payment of the premiums, when
20 Yagman obtained prescription medication from a pharmacy, the company
21 defendants would pay for those prescription medications.

22 128. The premiums were to be paid by the first of each calendar month.

23 129. The medications were to be paid for by these defendants upon the
24 dispensing of the medications.

25 130. Premiums were not deemed not paid until the tenth of each calendar
26 month.

27 131. Defendants did not provide any copy of the contract/plan to plaintiff.
28

1 132-226. Reserved.

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5 **COUNT 2**

6 (Fraudulent Breach of Written Agreement)

7 227. By doing the things alleged hereinabove, the company defendants
8 materially breached their written agreement with Yagman, Yagman was injured
9 and damaged by these defendants' breaches, and Yagman is entitled to recover
10 damages from defendants for breach of a written agreement.

11 **COUNT 3**

12 (Fraud)

13 228. By doing the things alleged hereinabove, all defendants committed
14 fraud, both fraud in the factum and fraud in the treaty, by making material
15 misrepresentations that were false, as set forth hereinabove, that the company
16 defendants would insure Yagman, and that were Yagman to make a valid claim on
17 his policy of insurance that that claim would be paid, they intended that Yagman
18 would rely on those misrepresentations, Yagman justifiably relied on them,
19 Yagman was harmed and damaged by his reliance, and defendants therefore are
20 liable to Yagman for damages for fraud.

21
22 229. The who, when, what, and where, statements, and falsity of the
23 statements that constitute the frauds are as follows:

24 230. The company defendants, beginning on or about January 1, 2017, and
25 continuing through on or about October 17 or October 23, 2017, communicated to
26 Yagman, through Yagman's insurance broker, Bel Air Insurance Services, Inc.,
27 and the broker, Barry Sikov, in Los Angeles, California, that the company
28 defendants would insure Yagman to pay for his prescription medications, provided

1 that Yagman would pay monthly premiums, but the representation that the
2 company defendants would insure Yagman was false, because the company
3 defendants did not intend to insure Yagman, and instead intended to defraud
4 Yagman by collecting premiums from him and then not paying for his prescription
5 medications.

6 231. The company defendants and the individually-named defendants,
7 NATASSIA KELLY, BILLIE JOE GLABICKI , CHELSEA JEFFERS, beginning
8 on or about April 14, 2017, and then on April 18, 2017, April 20, 2017, April 29,
9 2017, May 6, 2017, June 1, 2017, June 6, 2017, June 21, 2017, and June 26, 2017,
10 communicated to Yagman, directly, both by telephone and USPS mail, and
11 through Yagman's insurance broker, Bel Air Insurance Services, Inc., in Los
12 Angeles, and the broker, Barry Sikov, California, that the company defendants
13 would continue to insure Yagman and to pay for his prescription medications,
14 provided that Yagman would pay defendants \$126.90 by May 31, 2017, but the
15 representation that the company defendants would insure Yagman were he to pay
16 this sum by May 31, 2017 was false, because the company defendants and these
17 individually-named defendants did not intend to insure Yagman were he to make
18 this payment, and instead intended to defraud Yagman by collecting this payment,
19 and then not paying for his prescription medications.

20
21 232. Plaintiff justifiably relied on the representations, which were false and
22 known to be false when they were made, that were he to pay by May 31, 2017, his
23 insurance coverage would continue and would not be terminated.

24 233. Plaintiff paid the \$126.90 before May 31, 2017, but his coverage was
25 terminated effective June 1, 2017, thereby damaging plaintiff.

26 234. Defendants BERTOLINI and LYNCH formulated the way in which
27 these frauds would be executed and then ratified these frauds.
28

1 239. By doing the things alleged hereinabove, defendants engaged in unfair
2 business practices.

3 240. It was unfair for the company defendants to promise to insure Yagman
4 and then not to provide insurance coverage.

5 241. It was unfair for defendants NATASSIA KELLY, BILLIE JOE
6 GLABICKI, CHELSEA JEFFERS, beginning on or about April 14, 2017, and
7 then on April 18, 2017, April 20, 2017, April 29, 2017, May 6, 2017, June 1, 2017,
8 June 6, 2017, June 21, 2017, and June 26, 2017, to communicate with Yagman,
9 that the insurance companies would continue to insure Yagman, and to pay for his
10 prescription medications, provided that Yagman would pay defendants \$126.90 by
11 May 31, 2017, because representation that the company defendants would insure
12 Yagman were he to pay this sum by May 31, 2017 was false, because the company
13 defendants and these individually-named defendants did not intend to insure
14 Yagman were he to make this payment, and instead intended to defraud Yagman
15 by collecting this payment, and then not paying for his prescription medications.
16

17 **COUNT 6**

18 (Insurance Bad Faith)

19 242. By their conduct, all defendants engaged in a scheme of insurance bad
20 faith, by falsely agreeing to indemnify for the losses for which the policy of
21 insurance/plan purported to indemnify and then failing and refusing to indemnify
22 for those losses or timely to indemnify for them.

23 243. By their conduct in falsely representing to Yagman that were he to pay
24 defendants \$126.90 by May 31, 2017 his coverage would not be terminated, all
25 defendants engaged in a scheme of insurance bad faith, by falsely stating they
26 would continue to indemnify for the losses for which the policy of insurance/plan
27 purported to indemnify, and then failing and refusing to indemnify for those losses
28 or timely to indemnify for them.

1 conduct as alleged herein went far beyond the regular affairs of a corporation and
2 its employees and officers because it could not, as a matter of law, be within the
3 regular affairs to engage in chronic and systemic fraud. *See supra*. It was not
4 defendants' primary business activity to engage in frauds or elder abuse.

5 243. As regards the dealings alleged in the instant action, each different
6 company is, the individual defendants are, and the companies that are defendants
7 together are, an enterprise(s), within the meaning of 18 U.S.C. § 1961(4).

8 244. Each defendant's activities affect interstate commerce.

9 245. Each defendant received income, directly and/or indirectly, by way of
10 insurance premiums, salary, compensation, reimbursement for expenses, *per diem*
11 costs reimbursements, meals, lodging, and/or travel, *etc.*, from the pattern of
12 racketeering activity alleged herein and used that income in the acquisition of an
13 interest in and/or operation of the enterprise, in violation of 18 U.S.C. 1962(a),
14 and acquired and/or maintained control over said racketeering enterprise through a
15 pattern of racketeering activities, as set forth herein, in violation of 18 U.S.C.
16 1962(b).

17 246. All defendants conducted and/or participated in said enterprises' affairs
18 through a pattern of racketeering activities, in violation of 18 U.S.C. 1962(c).

19 247. The pattern of racketeering activities included a continuous, and
20 presently continuing, pattern and practice potentially involving activities,
21 including any potential civil RICO predicates, set forth in the RICO predicate
22 statutes, including mail fraud, wire fraud, fraudulent concealment, fraud, and
23 potentially obstruction of justice, and defendants' defense of the instant action will
24 constitute a continuation and a part of their RICO schemes.

25 248. On information and belief, the enterprises' activities have occurred on
26 more than one, and on many occasions, over at least the past 10 years, and have
27 been done on numerous occasions and constitute at least three separate acts, not
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1 including the acts included as part of the defense of the instant action. Plaintiff
2 will need discovery from defendants in order to determine on how many occasions
3 over the past 10 years defendants have engaged in RICO predicates.

4 249. The wrongful acts described in the matters enumerated hereinabove
5 occurred over a significant period of time, and are related in that they evidence
6 civil RICO predicates, including at least fraud, wire fraud, mail fraud, and
7 obstruction of justice, and pose a threat of continued criminal activity, have the
8 same or similar purposes, results, participants and kinds and categories of
9 participants, victims, methods of commission, and are otherwise interrelated by
10 their common characteristics, they are not isolated events, each and all if them
11 constitute a continuing pattern of racketeering activity, and they constitute a long
12 term threat of continuing racketeering activity.

13 250. These wrongful acts over a period of years and the bad acts alleged
14 hereinabove enabled defendants to acquire and maintain, both directly and
15 indirectly, interests in and control of the racketeering enterprises in which they
16 engages.

17 251. The activities led to defendants' control and acquisition over the
18 enterprises and resulted in the injuries to plaintiff, as alleged herein, which
19 resulted from defendants' participation in and control of the enterprises.

20 252. By failing to prevent the wrongful conduct herein alleged, misconduct
21 that amounted to racketeering activities, all managerial and non-managerial
22 employees and/or officers of defendants engaged in and condoned racketeering
23 activities, and perhaps their attorneys in the instant action, and when the names of
24 the managerial and non-managerial persons, some of which presently are
25 Unknown Named Defendants are obtained, the names of those persons will be
26 added as defendants.
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1 253. The willful and/or negligent mismanagement of the enterprises, with
2 knowledge by defendants charged with management and potentially other
3 defendants that they were and continue to be operated as a RICO enterprises,
4 directly caused the harm to plaintiff, as alleged herein.

5 254. The acquisition of control of the enterprises by its participants who
6 engaged in RICO predicate acts harmed plaintiff.

7 255. The enterprises are RICO enterprises because they have hierarchical
8 structures and consensual structures for making decisions, and those structures
9 have an existence beyond that which is necessary to commit the RICO predicate
10 acts alleged herein, in that the hierarchical and consensual structures exist to
11 accomplish doing business, and the structures for decision-making exist separate
12 and apart from the racketeering activities.

13 256. Plaintiff was harmed in that his property, to wit, his money and money
14 in which he had an interest, was subjected to, affected by, and its value affected
15 negatively by defendants' wrongful conduct, including extortion, fraud, wire
16 fraud, mail fraud, deception, and obstruction of justice.

17 257. Both directly and indirectly, defendants, in the acts and instances
18 alleged herein, and others, have conducted the RICO enterprises' affairs and have,
19 as a matter of fact, participated in the operation and *de facto* management of the
20 RICO enterprises.

21 258. By the conduct alleged herein, each defendant participated in the
22 operation and management of the RICO enterprises himself and/or itself, or
23 herself, and played some part in directing their affairs.

24 259. Specifically, defendants NATASSIA KELLY, BILLIE JOE
25 GLABICKI, CHELSEA JEFFERS intentionally twice defrauded plaintiff out of
26 \$126.90, and also conspired to terminate and did terminate his insurance coverage,
27 and they are liable under RICO for their conduct in this regard.
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1 260. By their conduct, all defendants engaged in a scheme of insurance bad
2 faith, by falsely agreeing to indemnify for the losses for which the policy of
3 insurance/plan purported to indemnify and then failing and refusing to indemnify
4 for those losses or timely to indemnify for them. Both the individual defendants
5 and the company defendants are liable for the individuals' wrongful conduct.

6 260. Plaintiff was injured in his property by reason of the conduct against
7 him, as set forth hereinabove.

8 261. Plaintiff has suffered a material diminution in the value of his property,
9 to wit, his money or money in which he had an interest, and also his credit was
10 harmed.

11 262. All defendants unlawfully engaged in the racketeering activities set
12 forth in the preceding averments and, on information and belief, on other
13 occasions during the past 10 years, through a pattern of racketeering activity, and
14 acquired, directly and indirectly, control of the enterprises, including, but not
15 limited to the company defendants writing and issuing policies of insurance.

16 263. Defendants and others, who either are or have been employed by or
17 who are associated with the racketeering enterprises, including, but not limited to,
18 RICHARD DOREN, TIMOTHY LOOSE, MICHAEL HOLECEK, and GIBSON,
19 DUNN & CRUTCHER, have conducted and assisted to conduct those enterprises
20 through a pattern of racketeering activity, as set forth hereinabove. *See also*
21 criminal investigation recently opened by United States Attorney for the Southern
22 District of New York into, among others, GIBSON, DUNN & CRUTCHER and
23 some of its lawyers, concerning transactions of Harvey Weinstein involving
24 \$600,000.00 raised at the AIDS charity, amfAR auction, into whether fraud
25 occurred, in which GIBSON, DUNN & CRUTCHER and some of its lawyers
26 apparently provided an opinion letter that the suspected transactions were
27 legitimate and lawful, and vouched for their lawfulness, even though the New
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1 York State Attorney General had found in September, 2017 that alleged charitable
2 transactions "resulted in [prohibited] benefits to private interests." Prosecutors
3 have subpoenaed records from GIBSON, DUNN & CRUTCHER and some of its
4 lawyers.

5 264. Through a pattern of racketeering activities, as set forth hereinabove,
6 defendants acquired and/or maintained, directly and/or indirectly, interests in
7 and/or control of the RICO enterprises and their activities by, among other things,
8 their own aggrandizement that flows therefrom.

9 265. By virtue of the allegations set forth hereinabove, some defendants
10 were or are employed by, all defendants were or are associated with, and all
11 defendants participated in, directly and/or indirectly, the RICO enterprises.

12 266. Defendants unlawfully conspired with others to violate the provisions
13 of 18 U.S.C. 1962(b), (c), and (d), and, on information and belief, continued to do
14 so with the aid and assistance of co-conspirators

15 267. Plaintiff was injured in his property by reason thereof, and plaintiff is
16 entitled to damages, to be trebled.

17 268. The wrongful policies and practices of defendants relating to the
18 solicitation, sale, and processing of policies of insurance include, but are not
19 limited to, the deliberate failure to make honest and truthful disclosures and of
20 making material misrepresentations, and have been formulated and implemented
21 by all defendants, both singly and jointly.

22 269. All defendants' actions involve thousands of consumers and constitute
23 a pattern of racketeering activity and the predicate acts of wire fraud and mail
24 fraud, in violation of 18 U.S.C. § 1343.

25 270-299. Reserved.

26
27 **CLASS ACTION ALLEGATIONS**
28

1 300. Plaintiff is a member of the discrete class of persons, whose defining
2 characteristic is that its members were insureds under agreements of
3 insurance/plans with the company defendants, to insure for prescription
4 medications and whose claims were not paid, or were not paid in full, or were not
5 timely paid, or whose insurance coverage improperly was terminated, and whose
6 prescription medications were not paid for by defendant companies.

7 301. This class contains at least 100 members, the class is so numerous so
8 that joinder of all members is impracticable, and plaintiff will need discovery from
9 defendant companies to ascertain the entire number of class members whose
10 insurance was cancelled.

11 302. Because only defendants know the names of all of the members of
12 class and defendants are the only persons who have information sufficient to
13 identify all the members of class it is impracticable to join all the members of the
14 class in this action.

15 303. There are only common questions of fact and law with respect to all
16 class members, which are whether they are insureds, whether they made claims,
17 and whether their claims were not paid, were not paid in full, were not timely paid,
18 or whose insurance coverage was cancelled.

19 304. The claim made by the representative party, plaintiff, is typical of the
20 claims of each class member.

21 305. The representative of the class, plaintiff, fairly, vigorously, and
22 zealously will represent and adequately protect the interests of all class members.

23 306. Prosecution of separate actions by individual class members would
24 create a risk of inconsistent or varying adjudications with respect to class
25 members, which would establish incompatible standards for parties opposing the
26 class, and defendants have acted and will continue to act on grounds generally
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1 applicable to every class member, and the class questions not only predominate
2 but are the only questions that exist.

3 307. Therefore, this action is maintainable under F.R. Civ. P. Rule 23(a), &
4 (b)(1)(A), (B)(1) and (3).

5 308. The nature of the notice to be provided to class members should be as
6 follows: defendants should be required to identify all insureds whose claims were
7 denied, not paid in full, or not timely paid, or whose insurance contracts were
8 cancelled due to defendants contending premiums had not timely been paid, and to
9 provide a suitable notice to all class members.

10 **WHEREFORE**, plaintiff requests relief against each defendant as follows:

11 1. General damages, including damages for emotional upset, to be
12 determined, in a sum exceeding \$75,000.00, exclusive of interest and costs;

13 2. Punitive damages in a sum to be determined by a jury, and as to
14 defendant companies, as a percentage of the net worth and yearly profits of
15 defendant companies, in a sum sufficient to deter future misconduct, and not less
16 than \$1,000,000.00;

17 3. The trebling of all damages for the RICO violations;

18 4. Costs of suit;

19 5. Attorneys' fees;

20 7. Interest;

21 8. Injunctive relief that defendants properly pay claims that are valid,
22 not refuse to pay claims that are valid, not to engage unfair claims practices, and to
23 reinstate plaintiff's insurance coverage; and,
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1 9. Such other relief as is just and proper.

2 **JURY DEMAND**

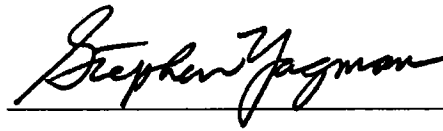
3 Plaintiff demands trial by jury of all issues.

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6 
7 **STEPHEN VAGMAN**

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DECLARATION OF SERVICE

On the date set forth on the signature line below, I shall have served the preceding paper, first amended complaint, on all interested parties whose names and whose addresses are listed below the signature line, by placing true copies thereof enclosed in sealed envelopes with full postage thereon fully prepaid in the United States mail at Los Angeles, California, and I declare the foregoing to be true under the penalty of perjury at Los Angeles, California on the date stamped on the signature line, below.



11/09/17

SIGNATURE

DATE

SERVICE LIST

Richard Doren, Esq.
Gibson, Dunn & Crutcher
333 South Grand Avenue
Los Angeles, CA 90071

